

CRM-M-16033-2018

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision: 25th April, 2018

Bala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amit Jain, Advocate,
for the petitioner.

Mr. Kuldeep Sharma, DAG, Haryana.

Mr. Sunil Panwar, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.573, dated 28.07.2017, registered at Police Station Civil Lines Gurugram, District Gurugram, under Sections 302, 34, 394, 397, 120-B of the Indian Penal Code (hereinafter referred to as 'IPC) and Section 25 of the Arms Act.

It is the contention of the learned counsel for the petitioner that the petitioner was arrested on 03.08.2017 and since then, she is in custody. Assertion has been made that the petitioner has been named in the FIR on the basis of a previous enmity, which is said to be the motive. It is asserted that earlier an FIR No.775 of 2016, under Sections 323, 452, 506 and 34 of

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IPC, Police Station City Gurugram, was registered against the petitioner and other co-accused, namely, Satpal Pehalwan and Naveen, which is pending trial. He contends that the petitioner has been involved in the present case merely because of suspicion and no overt act is alleged to have been made by the petitioner. He further submits that a supplementary challan has been presented by the prosecution on 06.04.2018 in Court against the co-accused, namely, Rohit and Satpal, under the Arms Act. He contends that till date, charge has not been framed and therefore, the trial is not likely to conclude in near future as 27 prosecution witnesses have been cited but none could be examined because of non-framing of the charge. He, therefore, prays for grant of regular bail to the petitioner during the pendency of the trial.

Counsel for the State, on the other hand, asserts that the motive itself identifies and explains the reason as to why the offence was committed at the behest of the petitioner. His submission is that the petitioner is the king pin and master mind. Because of the previous enmity between the parties, the present offence has been committed especially with an intention to dissuade the witnesses from appearing in the trial Court in the earlier FIR, which has been registered. Counsel contends that there have been 8 to 10 bullets, which have been fired upon the deceased and therefore, the petitioner may not be granted the concession of bail.

Learned counsel for the complainant, apart from supporting the arguments which have been put forth by the counsel for the State, asserts that the delay in the trial is primarily because of the adjournments, which have been sought by the defence counsel for framing of charge, which

cannot be attributed to the prosecution. He asserts that as a matter of fact, initially the petitioner was granted bail in FIR No.775 of 2016, which was earlier registered and is pending trial but subsequent thereto, she had jumped bail and committed the present offence, because of which, the earlier bail has been cancelled and now, she is in custody in the said case also. He, therefore, contends that the conduct of the petitioner do not entitle her to grant the benefit of bail.

I have considered the submissions made by the counsel for the parties and with their assistance have gone through the FIR and am of the considered view that although the petitioner has been attributed a motive and has specifically been named in the FIR but keeping in view the fact that she is a lady and in custody for more than 8 months and charge till date having not been framed with 27 prosecution witnesses, none of the them obviously, therefore, examined, the trial is not likely to conclude soon. That apart, the petitioner has not been shown to have taken an active part in the commission of offence. The conduct with regard to the petitioner as has been sought to be projected by the counsel for the complainant in the earlier FIR has led to her the consequences where the bail granted to her stands already cancelled and therefore, that has nothing to do with the present case as of now. It would not be out of way to mention here that any observation made while disposing of the present petition shall have no effect upon any other proceeding relatable to FIR No.775 of 2016. In case the petitioner does not conduct as per the provisions of statute and conditions to be imposed by the trial Court, the consequences will fall upon the petitioner

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accordingly.

In view of the above, the present petition is allowed and the petitioner is directed to be released on bail subject to her furnishing bail and surety bonds to the satisfaction of the trial Court concerned. It shall be open to the trial Court to impose any stringent condition, which it may feel would be essential for securing her presence.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

25th April, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No